

REMARKS**I. Status of the Claims**

Claims 1-8, 10-12, and 30-41 were pending and were subject to a restriction requirement. After entry of the restriction requirement, claims 10 and 31-35 remain pending.

Claim 31 is cancelled in the amendments above without prejudice to Applicant's right to pursue the subject matter of that claim in one or more other applications. Claim 34 has been rewritten in independent form in the amendments above. Claims 10, 32, 33, and 35 have been amended to depend from claim 34. New claims 42 and 43 are added in the amendments above. Support for new claim 42 may be found, for example at page 14, lines 13-14. Support for new claim 43 may be found, for example, at page 4, lines 29-30, and at page 10, line 12 to page 11, line 5.

Applicant respectfully requests reconsideration of claims 10, 32-35 and consideration of new claims 42-43.

II. Interview Summary

Applicant wishes to express gratitude to Examiner Saunders for speaking with Applicant's representative, Christopher Rhodes, on March 22, 2005. During a telephonic interview, Examiner Saunders indicated that the Office Action was improperly marked as final. The Examiner also confirmed that claim 10 should have been included in the elected claim group.

The Examiner further indicated that claim 34 would allowable as the citations (Lau, Rahman (A7) and Rahman (A8)) failed to disclose an iron chelator delivery system for treating iron overload in the liver, comprising an iron chelator and a lipid carrier, wherein said lipid carrier further comprises a liver cell targeting agent for targeting at least one liver carbohydrate receptor and wherein the concentration of the iron chelator is about 1 μ M to about 100 mM.

III. Claims 31-35 as Presented meet the Written Description Requirement of 35 U.S.C. § 112, First Paragraph

Claims 31-35 are rejected under 35 U.S.C. § 112, first paragraph. The Examiner asserts that the term “liver cell receptor” adds new matter. Applicant traverses the rejection.

Each of claims 31-35, as filed, meets the written description requirement of 35 U.S.C. § 112, first paragraph. Ample support exists throughout the specification, claims and figures as originally filed to support the subject matter of claims 31-35. For example, support for claims 31-35 may be found at page 4, lines 12-38, at page 6, lines 37-38, and at page 14, lines 12-20. *Ipsis verbis* support is not required under 35 U.S.C. § 112, first paragraph.

Nonetheless, in order to expedite prosecution, claim 31 has been cancelled in the amendments above and claim 32 has been amended to recite specifically the term “liver carbohydrate receptor.” The rejection is overcome in view of the amendments above.

IV. Claim 32 Meets the Definiteness Requirement of 35 U.S.C. § 112, Second Paragraph

Applicant traverses the rejection of claim 32 under 35 U.S.C. § 112, second paragraph in view of the amendments to claim 32.

Claim 32 has been amended to recite the term “a liver endothelial cell mannose receptor.” Support for this amendment may be found, for example, at page 14, lines 13-14. This rejection is overcome in view of the amendment above.

V. Claims 31-33 and 35 are each Patentable over Lau in view of Rahman (A7)

Applicant traverses the rejection of claims 31-33 and 35 under § 102(d) over Lau with Rahman (A7) cited to establish inherency.

First, 35 U.S.C. § 102(d) cannot be applied using the Lau citation. The text of § 102(d) is clear in requiring a foreign patent by the Applicant.

35 U.S.C. 102: A person shall be entitled to a patent unless ... (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed

more than twelve months before the filing of the application in the United States.

For 35 U.S.C. § 102(d) to apply the following four conditions must be met: (1) The foreign application must be filed more than 12 months before the effective U.S. filing date (See MPEP § 706.02 regarding effective U.S. filing date of an application); (2) The foreign application must have been filed by the same applicant as in the United States or by his or her legal representatives or assigns; (3) The foreign patent or inventor's certificate must be actually granted (e.g., by sealing of the papers in Great Britain) before the U.S. filing date. It need not be published; and (4) The same invention must be involved. See M.P.E.P § 2135.

The Lau citation is not an application filed more than 12 months by the Applicant. Lau is not an Applicant in the present case. No patent has been granted on the Lau citation, as Lau is an article and not a patent application. Accordingly, the § 102(d) rejection is improper.

Nonetheless, to advance prosecution of the application, claim 31 has been cancelled in the amendments above, and claims 32, 33 and 35, which originally depended from claim 31, have been amended to depend from claim 34. As indicated by the Examiner during the interview, claim 34 is allowable. Accordingly, claims 32-35 are allowable.

VI. Claims 31-33 and 35 are each Patentable over Rahman (A7)

Applicant traverses the rejection of claims 31-33 and 35 under § 102(b) in view of Rahman (A7).

Claims 31-33 and 35 are patentable over Rahman (A7). In particular, Rahman (A7) teaches away from iron chelator delivery systems having a targeting agent, which renders it inappropriate to apply Rahman (A7) to the instant claims. For example, Figure 6 on page 219 of Rahman (A7) indicates that liposomes containing galactolipid are less effective at iron removal, in at least certain applications, than those without galactolipid. See also page 219 where Rahman (A7) states that multilamellar liposomes "without galactocerebroside were superior to those made with the glycolipid."

Nonetheless, to advance prosecution of the application, claim 31 has been cancelled in the amendments above, and claims 32, 33 and 35, which originally depended from claim 31,

have been amended to depend from claim 34. As indicated by the Examiner during the interview, claim 34 is allowable. Accordingly, claims 32-35 are allowable.

**VII. Claims 31-33 and 35 are each
Patentable over Rahman (A8) in view of Rahman (A7)**

Applicant traverses the rejection of claims 31-33 and 35 under § 102(b) over Rahman (A8) with Rahman (A7) cited to demonstrate inherency.


Claims 31-33 and 35 are patentable over Rahman (A8). Similar to Rahman (A7), Rahman (A8) states that multilamellar liposomes "without galactocerebroside were superior to those made with glycolipid." See p. 288, second full paragraph and FIG. 1.

Notwithstanding the above distinction, to advance prosecution of the application, claim 31 has been cancelled in the amendments above, and claims 32, 33 and 35, which originally depended from claim 31, have been amended to depend from claim 34. As indicated by the Examiner during the interview, claim 34 is allowable. Accordingly, claims 32-35 are allowable.

VIII. Conclusion

For the reasons presented above, each of claims 10, 31-35 and 42-43 is in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,
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